

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

CRP.No. 122 OF 2003(G)

OS.499/1995 OF SUB COURT, MAVELIKKARA

REVN. PETITIONER: PLAINTIFFS

1. MADHAVIAMMA, ANILETHU VEEDU,
PARUMALA KADAPRA.
2. REVEENDRAN, DO. DO.
3. SYAMALA, DO. DO
4. VANAJA, DO. DO.
5. GANGADEVI, DO. DO.
6. MOHANAN, DO. DO.

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS: DEFENDANTS

1. AYYAPPAN NAIR, KADAKKETHU VEEDU,
EDASSERIMALA MURI, ARANMULA.
2. DAMODARAN NAIR, PADMALAYAM,
KADAMPOOR MURI, ENNAKKADU.
3. KARTHIYANI AMMA, AMBAKUDIYIL DO. DO.
4. JANAKIAMMA MEENAKSHIAMMA,
KALARIKKAL VEEDU, DO. DO.
5. GOPALAKRISHNAN, AMILETHUTHOPPIL,
PARUMALA MURI, KADAPRA.
6. SIVAN NAIR, DO. DO.
7. VISWANATHAN NAIR, DO. DO.
8. GANGADHARAN NAIR, DO. DO.

9. RADHAMMA, CHAKALA KIZHAKKETHIL
VADAKKETHIL, DO. DO.
10. THANKAMMA, KANAKAPPURATHU VEEDU,
PERISSERY MURI, PULIYOOR.
11. SARASWATHIAMMA, KALARICKAL
KALAPPURACKAL VEEDU, THAYYOOR MURI, ENAKKADU
12. SOMANATHAN, DO. DO.
13. VIJAYAMMA, DO. DO.
14. PRASANNAKUMARI, DO. DO.
15. GIREESH, DO. DO.
16. AMBIKA, DO. DO.
17. RAJAMMA THAMARASSERIL VADAKKETHIL,
KADAMPOOR MURI, ENNAKKADU.
18. RADHAKRISHNAN NAIR, DO. DO.
19. REMANI, VADAKKEDATHU VEEDU,
KAROTTU MURI, KODUKULANJI, VENMONY.
20. LALITHAMBIKA, KADAKKETHU
EDASSERIMALA MURI, ARANMULA.
21. SOMASEKHARAN NAIR, DO. DO.
22. VILASINI, DO. DO.
23. DILEEP KUMAR, DO. DO.
24. LEELAMANI, DO. DO.
25. PRASANNA, DO. DO.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 28/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P.R. RAMAN

=====

C.R.P. NO. 122 OF 2003

=====

DATED THIS, THE 28TH DAY OF MARCH, 2007.

ORDER

Raman, J.

O.S. No. 374/1993 was a suit pending before the Munsiff Court, Chengannur. That was a suit for partition filed by one Saraswathiamma and five others. Subsequently, another suit was instituted by Madhavi Amma and five others as O.S. 499/1995 before the Sub Court, Mavelikkara which is also for partition of the same property. Application was filed under Section 10 of the Code of Civil Procedure for staying further proceedings in O.S. 499/1995 until the disposal of O.S. 374/1993. The court below allowed the application against which this civil revision petition is filed.

2. It is submitted that the court below did not consider the fact that O.S. 374/1993 was already dismissed by judgment dated 30.3.1998 and the present order staying the suit was passed in July, 2002, much after the dismissal of O.S. 374/1993. If the court below has taken into consideration this fact, there arise no occasion for staying the suit.

3. On a perusal of the judgment in O.S. 374/1993 which was made available to me by the learned counsel, it is seen that the said suit was dismissed on 30.3.1998. If so, the said suit was not pending as on the date on which the order under challenge was passed. The court below has therefore erred in staying the suit O.S. 499/1999 on the misconception that the earlier suit was still pending as on the date of the order. The order impugned is set aside.

The civil revision petition is allowed.

P.R. RAMAN,
(JUDGE)

knc/-

CRP 122 OF 2003

:3:

P.R. RAMAN, J.

=====

C.R.P. NO. 122 OF 2003

=====

O R D E R

28TH MARCH, 2007.